



Paper No. 6

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OFFICE OF PETITIONS

In re Application of
Wright, Knapp & Craig
Application No.: 10/081,988
Filed: February 22, 2002
Attorney Docket No.: 20356.NP
For: NETWORKED REFERRAL COMMISSION
SYSTEM WITH CUSTOMER SERVICE
FUNCTIONS

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed June 4, 2002 (certificate of mailing date May 20, 2002).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on February 22, 2002 without an executed oath or declaration and filing fees. Accordingly, on March 20, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and filing fees, and a surcharge for their late filing.

In response, on June 4, 2002 (certificate of mailing date May 20, 2002) a declaration executed by 2 of 3 joint inventors, the surcharge, application filing fees, the petition fee, and the instant petition were filed. The petition states that the non-signing inventor, Mr. Rick G. Craig, reviewed a related provisional application at some time prior to the filing of the above-identified application and refused to sign the declaration for the above-identified application at a later time.

A grantable petition under 37 CFR 1.47(a) requires

- (1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
- (2) a proper oath or Declaration executed by the available joint inventor(s),
- (3) the fee of \$130 as specified in 37 CFR § 1.17(h), and
- (4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Applicants have failed to establish that the inventor has refused to sign the declaration. The proof of the pertinent events should be made by a statement of someone with

first hand knowledge of the events. The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). The petition states that Mr. Craig has only seen a related provisional application.

Mr. Craig must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. Mr. Craig cannot make the necessary statements ("I have reviewed and understand...", etc.) without looking at the application. When petitioners can show that Mr. Craig was mailed or received the complete application as filed and that he either refused to sign the declaration or would not respond to the request that he sign the declaration, petitioners will have satisfied this requirement.


Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 308-6712.


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